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4/7/17

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States of America v. Sean Le	)	Case No. H17-0475M
Defendant(s)	)	

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 28, 2016 in the county of Harris in the Southern District of Texas, the defendant(s) violated:

Code Section	*Offense Description*
18 U.S.C. § 2252A (a)(2)(B) 18 U.S.C. § 2252A (a)(5)(B)	Any person who knowingly receives or distributes any material that contains child pornography that has been mailed, or using any mean or facility of interstate or foreign commerce shipped or transported in or affecting interstate or foreign commerce by any means, including by computer. Any person who knowingly possesses any material that contains an image of child pornography that has been mailed or shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer.

This criminal complaint is based on these facts:

See attached Affidavit.

☑ Continued on the attached sheet.

[signature]
Complainant's signature

Robert J. Guerra, FBI Special Agent
Printed name and title

Sworn to before me and signed in my presence.

Date: 4-7-17

[signature]
Judge's signature

City and state: Houston, Texas

Nancy K. Johnson, USMJ
Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Robert J. Guerra, being duly sworn, hereby depose and state the following:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) and have been so employed since November 2005. I am charged with the duty of investigating violations of the laws of the United States, collecting evidence in cases in which the United States is or may be a party in interest and performing other duties imposed by law. During my assignment with the FBI I have participated in the execution of search warrants for documents and other evidence, including computers and electronic media, in cases involving child pornography and the sexual exploitation of children. I have investigated many cases involving child pornography and the sexual exploitation of children. I have also participated in various FBI mandated and volunteer training for the investigation and enforcement of federal child pornography laws in which computers were used as the means for receiving, transmitting and storing child pornography as defined in Title 18, United States Code, Section 2256.
2. This affidavit is submitted for the limited purpose of establishing probable cause in support of the attached Complaint and therefore contains only a summary of the relevant facts. I have not included each and every fact known by me concerning the individuals and events described herein. The information contained in this affidavit is based on my firsthand knowledge as well as information obtained through witness interviews conducted by me or other Law Enforcement Officers or Special Agents of the FBI and a review of various records.

3. A growing phenomenon on the Internet is peer to peer file sharing (hereinafter, "P2P"). P2P file sharing is a method of communication available to Internet users through the use of special software. The software is designed to allow users to trade digital files through a worldwide network that is formed by linking computers together.

4. On or about September 28, 2016, Federal Bureau of Investigation (FBI) Special Agent Robert J. Guerra, using a computer connected to the Internet and utilizing a law enforcement tool that allows single-source downloads from the BitTorrent P2P network, conducted an investigation into the sharing of child pornography through that network.

5. SA Guerra identified a computer on the BitTorrent P2P file sharing network with the IP address of 76.30.163.49 as a potential download candidate (source) for several files of investigative interest. SA Guerra directed his investigation to this computer at IP address 76.30.163.49 as it had been detected as being associated with investigative files of interest by investigators conducting keyword searches or hash value searches for files related to child exploitation material including child pornography on the BitTorrent network.

6. On September 28, 2016, at 23:35:14 (GMT - 5:00) and ending on September 29, 2016 at 23:31:11 (GMT - 5:00), SA Guerra successfully completed the download of over 180 image files and over 100 video files depicting child pornography, via single source download, which the computer at IP address 76.30.163.49 was making available. Following the downloads, your Affiant reviewed the files obtained during those various sessions and believes, based on his training and experience, that many of the files obtained from IP address 76.30.163.49 are child pornography as defined in Title 18,

United States Code, Section 2256. The content of five of the child pornography files downloaded from IP address 76.30.163.49 are described as follows:

a. **Filename: (pthc-jho-lolifuck) 10yo with glasses sucks dads dick.jpg**

Description: This is an image file depicting an underage female, who appears to be under the age of 12, being orally penetrated by an adult male's penis.

b. **Filename: pthc 12yr Sandra t33n model non nude ptsc girl(1).jpg**

Description: This is an image file depicting an underage female, who appears to be under the age of 14, being orally penetrated by an adult male's penis.

c. **Filename: (pthc) linda 2 true cum swallow.avi**

Description: This is a video file that is over 3 minutes in length and depicts an underage female, who appears to be under the age of 12, being orally penetrated by an adult male's penis.

d. **Filename: (pthc) sucknew (awesome cumshot).avi**

Description: This is a video file that is over 1 minute in length and depicts an underage female, who appears to be under the age 9, being orally penetrated by an adult male's penis.

e. **Filename: (pthc) valya.mpg**

Description: This is a video file that is over 3 minutes in length and depicts an underage female, who appears to be under the age 12. The child can be seen being blindfolded and bound by rope to what appears to be a bench, while being orally penetrated by an adult male's penis.

7. Your Affiant determined that IP address 76.30.163.49 was registered to the Internet Service Provider (ISP) Comcast Communications. On or about November 15, 2016, Comcast Communications responded to an administrative subpoena and provided account information for IP address 76.30.163.49 assigned on September 28, 2016, at 23:35:14 (GMT - 5:00). The account information provided by Comcast Communications listed the subscriber as Duc Le, residing on Tobinn Manor Drive, Cypress, Texas 77429.

8. On April 7, 2017, FBI Houston executed a federal search warrant at the aforementioned address. Upon the execution of said search warrant, Sean Le, hereinafter referred to as "Le", was identified and subsequently interviewed by SA Robert J. Guerra and SA Ryan J. Shultz. After being advised of his *Miranda Rights*, Le agreed to make a statement.

9. Le advised that he had utilized the BitTorrent Peer-To-Peer program to download digital media to include child pornography images and videos. After downloading child pornography, Le would view, masturbate and then delete the child pornography files off of his laptop computer. Child pornography was something that peaked Le's curiosity, which then led him to conduct searches in order to find it and he would subsequently download and view the child pornography. Le estimated he had been downloading and viewing child pornography for the past two to three years.

10. Le acknowledged a general understanding of peer-to-peer programs with regard to having to conduct keyword searches for a topic of interest and then having to actively select and approve the desired files for download and receipt. Le also acknowledged an understanding that peer-to-peer programs are file sharing programs that are based on

users sharing files with other users, but stated it was not his intent to share child pornography files.

11. Your affiant presented Le with the option to review two contact sheets which contained several still images of the videos (as described in paragraph 6) that SA Guerra had downloaded from a computer connected to the IP address registered to Sean Le's father, Duc Le. Le agreed to review the contact sheets and subsequently stated that he recognized all the still images as child pornography he had previously received, viewed and distributed from his laptop computer while connected to the Internet via the peer-to-peer program, BitTorrent.

CONCLUSION

12. Based on all information set forth above, your Affiant believes there is probable cause to believe that on or about September 28, 2016, Sean Le, was in violation of Title 18 U.S.C. § 2252A (a)(2)(B) and 2252A (a)(5)(B)- the distribution, receipt and possession of child pornography.

Robert J. Guerra, SA, FBI

Subscribed and sworn before me this 7th day of April 2017.

Nancy K. Johnson
United States Magistrate Judge